

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TAMMY MURRAY, et al.,

Plaintiffs,

CIVIL ACTION NO. 07-CV-10798-DT

VS.

DISTRICT JUDGE ANNA DIGGS TAYLOR

SCOTT ATKINSON, et al.,

MAGISTRATE JUDGE MONA K. MAJZOUB

Defendants.

OPINION AND ORDER DENYING PLAINTIFFS'
MOTION TO MODIFY SCHEDULING ORDER

This matter comes before the Court on Plaintiffs' Motion to Modify Scheduling Order filed on April 10, 2007. (Docket no. 4). Defendants have responded to the motion. (Docket no. 9). This matter has been referred to the undersigned for decision pursuant to 28 U.S.C. § 636(b)(1)(A). (Docket no. 9). The Court dispenses with oral argument pursuant to E.D. Mich. LR 7.1(e). The motion is now ready for ruling.

Plaintiffs began this action in state court. The parties agreed that Plaintiffs could file an Amended Complaint and that Defendants would then remove the action to federal court. Plaintiffs' Amended Complaint was filed on February 15, 2007. (Docket no. 1). The case was then removed to this Court. Plaintiffs' Amended Complaint added a Plaintiff, a Defendant, and additional federal claims under 42 U.S.C. § 1983. (*Id.*) Judge Taylor entered a Scheduling Order on March 21, 2007. (Docket no. 3). Plaintiffs argue that this Order sets up time frames that might be appropriate for a new case, but not for a case such as this one. Plaintiffs contend that discovery was completed in the state court case before removal. (Docket no. 4). They request that the Court modify the Scheduling Order to reflect the completion of discovery in state court prior to removal.

Defendants adamantly oppose Plaintiffs' motion. They point out that Plaintiffs' Amended Complaint was filed just before removal and that it added parties and claims. (Docket no. 9). Defendants also contend that they have not been successful in deposing the new Plaintiff, Mr. Murray, despite several attempts. (*Id.* at 2). Defendants further contend that they have not been successful in obtaining the medical records of Plaintiff Tammy Murray despite attempts. (*Id.* at 3). Finally, Defendants still intend to take depositions of Plaintiffs' witnesses and experts. (*Id.*)

The record confirms that Plaintiffs' Amended Complaint was filed just before this case was removed from state court. (Docket no. 1). Also, the Amended Complaint added a Plaintiff, a Defendant, and federal claims. (Docket no. 9, ex. 1). These changes are sufficient to convince the Court that the Scheduling Order as entered should not be modified. Defendants' summary of the significant discovery that they intend to engage in during the discovery period further supports the conclusion that the discovery schedule should not be modified.

IT IS THEREFORE ORDERED that Plaintiffs' Motion to Modify Scheduling Order (docket no. 4) is **DENIED**.

NOTICE TO THE PARTIES

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. 636(b)(1).

Dated: May 04, 2007

s/ Mona K. Majzoub

MONA K. MAJZOUB

UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Opinion and Order was served upon Counsel of Record on this date.

Dated; May 04, 2007

s/ Lisa C. Bartlett

Courtroom Deputy